

IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION

BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR.,* KATHRYN H. VRATIL, DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL

TRANSFER ORDER

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in 38 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of all actions in MDL-1657 proceedings. The treating physician and dispensing pharmacy defendants in the four West Virginia actions also favor inclusion of their actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending or anticipated motions to remand to state court or relating to the status of the action pending in the Central District of California can be presented to and decided by the transferee judge. See, e.g., In re Ivy, 901 F.2d 7 (2d Cir. 1990); In re Prudential Insurance Company of America Sales Practices Litigation, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed by the Panel in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims relating to Vioxx. See In re Vioxx Products Liability Litigation, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

Judges Motz and Miller took no part in the decision of this matter.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

Wm. Terrell Hodges

Chairman

CLERK'S OFFICE A TRUE COPY

Deputy Clerk, U.S. District Court Eastern District of Louisiana New Orleans, LA

SCHEDULE A

MDL-1657 In re Vioxx Marketing, Sales Practices and Products Liability Litigation	EDLA SEC.L/3
Central District of California	
Ruby Lois Moore Estate, etc. v. Merck & Co., Inc., C.A. No. 2:06-7548	07-0668
Eastern District of California	
Mosetta Bernstine v. Merck & Co., Inc., et al., C.A. No. 2:07-34 Katherine Harrison v. Merck & Co., Inc., et al., C.A. No. 2:07-42 James Daniels, Jr. v. Merck & Co., Inc., et al., C.A. No. 2:07-48 Barbara Ford-Daniels v. Merck & Co., Inc., et al., C.A. No. 2:07-51 Lynn Franklin v. Merck & Co., Inc., et al., C.A. No. 2:07-57 Irma Franklin v. Merck & Co., Inc., et al., C.A. No. 2:07-58 Carolyn Lee Wilson v. Merck & Co., Inc., et al., C.A. No. 2:07-61 Mary Ann Harris v. Merck & Co., Inc., et al., C.A. No. 2:07-67 John Wilson v. Merck & Co., Inc., et al., C.A. No. 2:07-68 Ishmael Haqq v. Merck & Co., Inc., et al., C.A. No. 2:07-73 David Tenn, etc. v. Merck & Co., Inc., et al., C.A. No. 2:07-75 Estate of Juanita Battle v. Merck & Co., Inc., et al., C.A. No. 2:07-77 Denise Denison v. Merck & Co., Inc., et al., C.A. No. 2:07-79	07-3277 07-3278 07-3279 07-3280 07-3281 07-3282 07-3283 07-3284 07-3285 07-3286 07-3287 07-3288 07-3288
Northern District of California	
Dorothy Shanks v. Merck & Co., Inc., et al., C.A. No. 3:07-65 Stanford Johnson v. Merck & Co., Inc., et al., C.A. No. 3:07-67 Estate of Robert Badke, et al. v. Merck & Co., Inc., et al., C.A. No. 3:07-69 Fred Hardin v. Merck & Co., Inc., et al., C.A. No. 3:07-75 Jeffrey Nielsen v. Merck & Co., Inc., et al., C.A. No. 3:07-76 Juliana Nielsen v. Merck & Co., Inc., et al., C.A. No. 3:07-77 Jacquelyn Johnson v. Merck & Co., Inc., et al., C.A. No. 3:07-78 Arthur Shanks v. Merck & Co., Inc., et al., C.A. No. 4:07-68 Earnestine Hardin v. Merck & Co., Inc., et al., C.A. No. 4:07-70 Shahla Jaferian v. Merck & Co., Inc., et al., C.A. No. 5:07-66 Estate of Sandra Ellis v. Merck & Co., Inc., et al., C.A. No. 5:07-79 Randolph Dossett v. Merck & Co., Inc., et al., C.A. No. 5:07-80 Suzanne Dante v. Merck & Co., Inc., et al., C.A. No. 5:07-81	07-3290 07-3291 07-3292 07-3293 07-3294 07-3295 07-3296 07-3297 07-3298 07-3299 07-3300 07-3301 07-3302 07-3303

- A2 -	EDLA SEC.L/3
Southern District of California	
Genevieve Tadman v. Merck & Co., Inc., et al., C.A. No. 3:06-2151 Del Rorer v. Merck & Co., Inc., et al., C.A. No. 3:07-10 Carol Krepp v. Merck & Co., Inc., et al., C.A. No. 3:07-11 Charles Krepp v. Merck & Co., Inc., et al., C.A. No. 3:07-12 Teresa Rorer v. Merck & Co., Inc., et al., C.A. No. 3:07-14 Arlene Purvis v. Merck & Co., Inc., et al., C.A. No. 3:07-15	07-3304 07-3305 07-3306 07-3307 07-3308 07-3309
Northern District of West Virginia	
Helen Jean Anderson, etc. v. Merck & Co., Inc., et al., C.A. No. 5:06-151	07-3310
Southern District of West Virginia	
Paul Noe, et al. v. Merck & Co., Inc., et al., C.A. No. 2:06-1004 Leota Faye Dickens v. Merck & Co., Inc., et al., C.A. No. 2:06-1005 Madonna Armentrout, etc. v. Rite Aid of West Virginia, Inc., C.A. No. 3:06-1058	07-3311 07-3312 07-3313